

No. 25-1101

IN THE
Supreme Court of the United States

PAULINE NEWMAN, JUDGE,
UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT,
Petitioner,

v.

KIMBERLY A. MOORE, CHIEF JUDGE,
UNITED STATES COURT OF APPEAL FOR THE FEDERAL CIRCUIT, ET AL.
Respondents,

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

BRIEF FOR *AMICUS CURIAE*
FORMER LAW CLERKS TO JUDGE NEWMAN
IN SUPPORT OF PETITIONER

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INTEREST OF *AMICI*¹

Amici are former law clerks to Judge Pauline Newman who collectively worked for her at times between 1984 and 2012. Each *amici* has personally interacted with Judge Newman since her suspension began in March 2023 and none of them believes that she is incapable of fulfilling the duties of her judicial office.

Amici are representative law clerks from various decades of Judge Newman's judicial tenure: Darrel Karl (1984-1986), Nancy Linck (1986-1987), Mark Dickson (1988-1990), Laura Fraedrich (1995-1997), John Perkins (2003-2004), Jeffrey Stephens (2009-2011), Brian Abramson (2010-2012), and James Lovsin (2010-2012). All participants join the brief in their individual capacities.²

Amici have no financial interest in the outcome of this case, but are invested in seeing the Court apply judicial independence, separation of

¹ Pursuant to Supreme Court Rule 37.6, *amici* state that no counsel for any party authored this brief in whole or in part, and that no person or entity other than *amici* or its counsel made a monetary contribution to the preparation or submission of this brief. *Amici* provided timely notice to Petitioner and Respondent of their intent to file this brief.

² There are other former law clerks to Judge Newman who declined to publicly join the brief because they practice before the Federal Circuit or work in law firms who practice before the Federal Circuit and fear reprisal.

powers, and due process in a reasonable and consistent way.

SUMMARY OF THE ARGUMENT

Amici submit this brief to provide context to the Court from former clerks to Judge Newman that have personally interacted with her since her suspension began in March 2023.

Statements by the D.C. Circuit Court of Appeals in its opinion support the grant Judge Newman's petition, and the Court's involvement here is needed to ensure that Judge Newman's case is decided on its merits. Congress has not initiated impeachment proceedings against her, and Congress is unlikely to act regarding her suspension.

Judge Newman is entitled to judicial review of her constitutional claims.

ARGUMENT

The D.C. Circuit stated that Judge Newman's case poses "important and serious questions" and raises "constitutional concerns:"

Judge Newman has posed important and serious questions about whether these Judicial Conduct and Disability Act proceedings comport with constitutional due process principles and whether her ongoing suspension

comports with the structure of our Constitution. That we do not answer those questions is no indication that her arguments lack merit, nor signals how we might have addressed them if we were able.

...

The seeming absence of a judicial forum to address Newman's as-applied constitutional claims itself raises constitutional concerns. Judge Newman presents substantial arguments that her suspension—which has now lasted nearly two years, with a third year recommended—threatens the principle of judicial independence and may violate the separation of powers. She further contends that the refusal to transfer her case to a different circuit deprived her of an impartial tribunal, which if correct would raise due process concerns.

App. 21a, 22a (citation omitted). *Amici* agree with these statements by the D.C. Circuit and submit that they support granting Judge Newman's petition.

The Court's involvement here is needed to confirm that Judge Newman's case should be decided on its merits. Despite the widespread press coverage

of Judge Newman’s suspension, alleged disability, and alleged misconduct for over three years,³ Congress has not initiated impeachment proceedings against Judge Newman. To the contrary, a spokesperson for the Chairman of the House Judiciary Committee Jim Jordan stated that Judge Newman is “an exemplary jurist” and has “earned every right to keep her seat on the bench and make decisions about her future herself.”⁴

³ See, e.g., Carrie Johnson, Why a 98-year-old federal judge is asking the Supreme Court for her job back, Mar. 29, 2026 in *All Things Considered*, NPR, available at <https://www.npr.org/2026/03/29/nx-s1-5752172/oldest-federal-judge-us-supreme-court> (quoting Judge Paul Michel (Ret.)); Judge Paul Michel (Ret.), Judge Newman’s Suspension by the CAFC Has Marred Public Faith in the Federal Judiciary, Dec. 2, 2024, IPWATCHDOG.COM, available at <https://ipwatchdog.com/2024/12/02/judge-newmans-suspension-cafc-marred-public-faith-federal-judiciary/>; Judge Randall Rader (Ret.), An Open Letter to the Circuit Judges on the Court of Appeals for the Federal Circuit, Sep. 21, 2023, IPWATCHDOG.COM, available at <https://ipwatchdog.com/2023/09/21/open-letter-circuit-judges-court-appeals-federal-circuit/>; Mariah Timms, Federal Court Suspends 96-Year-Old Judge Amid Competence Investigation, WALL ST. J., Sep. 20, 2023; Rachel Weiner, 96-year-old judge who refuses to retire suspended for ‘misconduct,’ WASHINGTON POST, Sep. 20, 2023.

⁴ Kelcee Griffis and Robert Iafolla, Medical Exam Demands and Aging Judges: Newman Saga Explained, May 18, 2023, BLOOMBERG LAW.COM (quoting Rep. Jordan spokesperson Russell Dye).

Amici believe that Congress is unlikely to act regarding Judge Newman’s suspension. The House Judiciary Committee has only asked questions about the “total cost” of the

Without judicial review of her suspension, Judge Newman is in limbo. To safeguard judicial independence and to provide due process, Judge Newman is entitled to meaningful review of her constitutional claims.

CONCLUSION

The petition for a writ of *certiorari* should be granted.

Respectfully Submitted,

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investigation and proceedings “in and around” Judge Newman. Fiscal Accountability and Oversight of the Federal Courts: Hearing Before the H. Sub. Comm. On Courts, Intellectual Property, Artificial Intelligence, and The Internet, 119th Cong. 119-25, 36-37 (2005) (Rep. Fitzgerald and Judge St. Eve).